

**Representative Kim F. Coleman** proposes the following substitute bill:

**GOVERNMENTAL NONPROFIT ENTITY COMPLIANCE**

**AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kim F. Coleman**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill enacts provisions relating to governmental nonprofit corporations.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ imposes requirements on the board of a governmental nonprofit corporation;
- ▶ requires a governmental nonprofit corporation to comply with certain meeting requirements;
- ▶ subjects a governmental nonprofit corporation to:
  - certain fiscal procedures;
  - the Open and Public Meetings Act; and
  - the Government Records Access and Management Act; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **11-13-501**, as enacted by Laws of Utah 2015, Chapter 265

29 **51-2a-102**, as last amended by Laws of Utah 2015, Chapters 138 and 407

30 **51-2a-403**, as enacted by Laws of Utah 2004, Chapter 206

31 **52-4-103**, as last amended by Laws of Utah 2016, Chapter 77

32 **63G-2-103**, as last amended by Laws of Utah 2015, Chapter 265

33 ENACTS:

34 **11-13a-101**, Utah Code Annotated 1953

35 **11-13a-102**, Utah Code Annotated 1953

36 **11-13a-103**, Utah Code Annotated 1953

37 **11-13a-104**, Utah Code Annotated 1953



39 *Be it enacted by the Legislature of the state of Utah:*

40 Section 1. Section **11-13-501** is amended to read:

41 **11-13-501. Definitions.**

42 As used in this part:

43 (1) "Appropriation" means an allocation of money by the governing board in a budget  
44 for a specific purpose.

45 (2) "Budget" means a plan of financial operations for a fiscal year that embodies  
46 estimates of proposed expenditures for given purposes and the proposed means of financing  
47 them, and may refer to the budget of a particular fund for which a budget is required by law or  
48 may refer collectively to the budgets for all required funds.

49 (3) "Budget officer" means the person appointed by an interlocal entity governing  
50 board to prepare the budget for the interlocal entity.

51 (4) "Budget year" means the fiscal year for which a budget is prepared.

52 (5) "Calendar year entity" means an interlocal entity whose fiscal year begins January 1  
53 and ends December 31 of each calendar year as described in Section **11-13-503**.

54 (6) "Current year" means the fiscal year in which a budget is prepared and adopted, and  
55 which is the fiscal year immediately preceding the budget year.

56 (7) "Deficit" means the occurrence when expenditures exceed revenues.

57 (8) "Enterprise fund" has the meaning provided in generally accepted accounting  
58 principles.

59 (9) "Estimated revenue" means the amount of revenue estimated to be received from all  
60 sources during the budget year in each fund for which a budget is being prepared.

61 (10) "Fiscal year" means the annual period for accounting for fiscal operations in an  
62 interlocal entity.

63 (11) "Fiscal year entity" means an interlocal entity whose fiscal year begins July 1 of  
64 each year and ends on June 30 of the following year as described in Section [11-13-503](#).

65 (12) "Fund" has the meaning provided in generally accepted accounting principles.

66 (13) "Fund balance" has the meaning provided in generally accepted accounting  
67 principles.

68 (14) "General fund" has the meaning provided in generally accepted accounting  
69 principles.

70 (15) "Generally accepted accounting principles" means the accounting principles and  
71 standards promulgated from time to time by authoritative bodies in the United States.

72 (16) "Governmental fund" has the meaning provided in generally accepted accounting  
73 principles.

74 (17) "Interfund loan" means a transfer of assets from one fund to another, subject to  
75 future repayment.

76 (18) "Interlocal entity" includes a governmental nonprofit corporation, as that term is  
77 defined in Section [11-13a-102](#).

78 [~~18~~] (19) "Interlocal entity general fund" means the general fund of an interlocal  
79 entity.

80 [~~19~~] (20) "Internal service funds" has the meaning provided in generally accepted  
81 accounting principles.

82 [~~20~~] (21) "Last completed fiscal year" means the fiscal year immediately preceding  
83 the current fiscal year.

84 [~~21~~] (22) "Proprietary fund" means enterprise funds and the internal service funds of  
85 an interlocal entity.

86 [~~22~~] (23) "Public funds" means any money or payment collected or received by an  
87 interlocal entity, including money or payment for services or goods provided by the interlocal

88 entity.

89 [~~(23)~~] (24) "Retained earnings" has the meaning provided in generally accepted  
90 accounting principles.

91 [~~(24)~~] (25) "Special fund" means an interlocal entity fund other than the interlocal  
92 entity general fund.

93 Section 2. Section 11-13a-101 is enacted to read:

94 **CHAPTER 13. GOVERNMENTAL NONPROFIT CORPORATIONS ACT**

95 **11-13a-101. Title.**

96 This chapter is known as the "Governmental Nonprofit Corporations Act."

97 Section 3. Section 11-13a-102 is enacted to read:

98 **11-13a-102. Definitions.**

99 As used in this chapter:

100 (1) "Controlling interest" means that:

101 (a) one or more governmental entities appoint, through official action, members of the  
102 board of directors of a nonprofit corporation who collectively represent a majority of the  
103 board's voting power; or

104 (b) one or more governmental entities have a majority ownership of a nonprofit  
105 corporation formed through contract.

106 (2) (a) "Governing board" means the body that governs a governmental nonprofit  
107 corporation.

108 (b) "Governing board" includes a board of directors.

109 (3) "Governmental nonprofit corporation" means a nonprofit corporation:

110 (a) that is wholly owned or controlled by a governmental entity; or

111 (b) in which one or more governmental entities exercise a controlling interest and that:

112 (i) exercises taxing authority;

113 (ii) imposes a mandatory fee for association or participation with the nonprofit

114 corporation where that association or participation is mandated by law; or

115 (iii) receives a majority of the nonprofit corporation's operating funding from one or  
116 more governmental entities under its contractual organizing or ownership agreement.

117 (4) "Government entity" means the state, a county, a municipality, a local district, a  
118 special service district, a school district, a state institution of higher education, or any other

119 political subdivision or administrative unit of the state.

120 (5) "Municipality" means a city, town or metro township.

121 Section 4. Section **11-13a-103** is enacted to read:

122 **11-13a-103. Governance -- Powers of governing body.**

123 (1) A governing board shall manage and direct the business and affairs of a  
124 governmental nonprofit corporation.

125 (2) Each member of a governing board has and owes a fiduciary duty to the  
126 governmental nonprofit corporation.

127 (3) A governing board:

128 (a) shall elect a chair from the members of the board; and

129 (b) subject to Subsection (4), may elect other officers as the board considers  
130 appropriate.

131 (4) (a) One person may not hold, at the same time, the offices of chair and treasurer,  
132 chair and clerk, or treasurer and clerk.

133 (b) An officer serves at the pleasure of the governing board.

134 (c) The governing board may designate a set term for each office.

135 Section 5. Section **11-13a-104** is enacted to read:

136 **11-13a-104. Quorum of the governing board -- Meetings of the governing board.**

137 (1) (a) A majority of the governing board constitutes a quorum for the transaction of  
138 governing board business.

139 (b) Action by a majority of a quorum constitutes action of the governing board.

140 (2) The governing board shall hold regular and special meetings as the governing board  
141 determines at a location that the governing board determines.

142 (3) (a) The governing board shall ensure that each meeting of the governing board  
143 complies with Title 52, Chapter 4, Open and Public Meetings Act.

144 (b) Subject to Title 52, Chapter 4, Open and Public Meetings Act, a governing board  
145 shall:

146 (i) adopt rules of order and procedure to govern a public meeting of the governing  
147 board;

148 (ii) conduct a public meeting in accordance with the governing board's rules of order  
149 and procedure; and

150 (iii) make the governing board's rules of order and procedure available to the public:

151 (A) at each meeting of the governing board; and

152 (B) on the governmental nonprofit corporation's public website, if available.

153 (4) The governing board shall comply with:

154 (a) Title 11, Chapter 13, Part 5, Fiscal Procedures for Interlocal Entities; and

155 (b) Title 63G, Chapter 2, Government Records Access and Management Act.

156 Section 6. Section **51-2a-102** is amended to read:

157 **51-2a-102. Definitions.**

158 As used in this chapter:

159 (1) "Accounting reports" means an audit, a review, a compilation, or a fiscal report.

160 (2) "Audit" means an examination that:

161 (a) is performed in accordance with generally accepted government auditing standards,

162 or for a nonprofit ~~[corporations described in Subsection (6)(f)]~~ corporation or a governmental  
163 nonprofit corporation, in accordance with generally accepted auditing standards; and

164 (b) conforms to the uniform classification of accounts established or approved by the  
165 state auditor or any other classification of accounts established by any federal government  
166 agency.

167 (3) "Audit report" means:

168 (a) the financial statements presented in conformity with generally accepted accounting  
169 principles;

170 (b) the auditor's opinion on the financial statements;

171 (c) a statement by the auditor expressing positive assurance of compliance with state  
172 fiscal laws identified by the state auditor;

173 (d) a copy of the auditor's letter to management that identifies any material weakness in  
174 internal controls discovered by the auditor and other financial issues related to the expenditure  
175 of funds received from federal, state, or local governments to be considered by management;  
176 and

177 (e) management's response to the specific recommendations.

178 (4) "Compilation" means information presented in the form of financial statements  
179 presented in conformity with generally accepted accounting principles that are the

180 representation of management without the accountant undertaking to express any assurances on

181 the statements.

182 (5) "Fiscal report" means providing information detailing revenues and expenditures of  
183 all funds in a format prescribed by the state auditor.

184 (6) "Governing board" means:

185 (a) the governing board of each political subdivision;

186 (b) the governing board of each interlocal organization having the power to tax or to  
187 expend public funds;

188 (c) the governing board of any local mental health authority established under the  
189 authority of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

190 (d) the governing board of any substance abuse authority established under the  
191 authority of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

192 (e) the governing board of any area agency established under the authority of Title  
193 62A, Chapter 3, Aging and Adult Services;

194 (f) the ~~governing~~ board of directors of any nonprofit corporation that receives an  
195 amount of money requiring an accounting report under Section [51-2a-201.5](#);

196 (g) the governing board, as that term is defined in Section [11-13a-102](#), of a  
197 governmental nonprofit corporation;

198 ~~(g)~~ (h) the governing board of any other entity established by a local governmental  
199 unit that receives tax exempt status for bonding or taxing purposes; and

200 ~~(h)~~ (i) in municipalities organized under an optional form of municipal government,  
201 the municipal legislative body.

202 (7) "Governmental nonprofit corporation" means the same as that term is defined in  
203 Section [11-13a-102](#).

204 (8) "Nonprofit corporation" does not include a governmental nonprofit corporation.

205 ~~(7)~~ (9) "Review" means performing inquiry and analytical procedures that provide the  
206 accountant with a reasonable basis for expressing limited assurance that there are no material  
207 modifications that should be made to the financial statements for them to be in conformity with  
208 generally accepted accounting principles.

209 Section 7. Section **51-2a-403** is amended to read:

210 **51-2a-403. General Fund reimbursed for accounting report of nonappropriated**  
211 **activities -- Amount of reimbursement.**

212 (1) The General Fund shall be reimbursed by the entity for which an audit, review, or  
213 compilation are in whole or in part performed, whenever the state auditor or legislative auditor  
214 general is required by law or constitutional provision to perform that audit, review, or  
215 compilation or cause that audit, review, or compilation to be made for any office, department,  
216 division, board, agency, commission, council, authority, institution, hospital, school, college,  
217 university, or other instrumentality of the state or any of its political subdivisions for  
218 nonappropriated activities, including associated students' accounts, auxiliary enterprise funds,  
219 nonprofit corporations, governmental nonprofit corporations, contracts with the federal  
220 government, federal grants-in-aid, and federal assistance programs.

221 (2) (a) The reimbursement amount shall be a pro rata share of that auditor's total cost,  
222 based upon a time-spent factor.

223 (b) An audit includes an audit of state-appropriated funds.

224 (i) If state-appropriated funds are not involved in the accounting report, the  
225 reimbursement may not be less than the average hourly cost of the operations of that auditor's  
226 office nor more than the average rate attainable from certified public accounting firms  
227 performing similar services for this state.

228 (ii) Reimbursement charges may be negotiated with that auditor's office within these  
229 limitations.

230 Section 8. Section **52-4-103** is amended to read:

231 **52-4-103. Definitions.**

232 As used in this chapter:

233 (1) "Anchor location" means the physical location from which:

234 (a) an electronic meeting originates; or

235 (b) the participants are connected.

236 (2) "Capitol hill complex" means the grounds and buildings within the area bounded by  
237 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake  
238 City.

239 (3) "Convening" means the calling together of a public body by a person authorized to  
240 do so for the express purpose of discussing or acting upon a subject over which that public  
241 body has jurisdiction or advisory power.

242 (4) "Electronic meeting" means a public meeting convened or conducted by means of a

243 conference using electronic communications.

244 (5) "Electronic message" means a communication transmitted electronically, including:

245 (a) electronic mail;

246 (b) instant messaging;

247 (c) electronic chat;

248 (d) text messaging as defined in Section 76-4-401; or

249 (e) any other method that conveys a message or facilitates communication

250 electronically.

251 (6) (a) "Meeting" means the convening of a public body or a specified body, with a  
252 quorum present, including a workshop or an executive session, whether in person or by means  
253 of electronic communications, for the purpose of discussing, receiving comments from the  
254 public about, or acting upon a matter over which the public body or specific body has  
255 jurisdiction or advisory power.

256 (b) "Meeting" does not mean:

257 (i) a chance gathering or social gathering; or

258 (ii) a convening of the State Tax Commission to consider a confidential tax matter in  
259 accordance with Section 59-1-405.

260 (c) "Meeting" does not mean the convening of a public body that has both legislative  
261 and executive responsibilities if:

262 (i) no public funds are appropriated for expenditure during the time the public body is  
263 convened; and

264 (ii) the public body is convened solely for the discussion or implementation of  
265 administrative or operational matters:

266 (A) for which no formal action by the public body is required; or

267 (B) that would not come before the public body for discussion or action.

268 (7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the  
269 public statements of each member of the public body who is participating in a meeting.

270 (8) "Participate" means the ability to communicate with all of the members of a public  
271 body, either verbally or electronically, so that each member of the public body can hear or  
272 observe the communication.

273 (9) (a) "Public body" means any administrative, advisory, executive, or legislative body

274 of the state or its political subdivisions that:

- 275 (i) is created by the Utah Constitution, statute, rule, ordinance, or resolution;
- 276 (ii) consists of two or more persons;
- 277 (iii) expends, disburses, or is supported in whole or in part by tax revenue; and
- 278 (iv) is vested with the authority to make decisions regarding the public's business.

279 (b) "Public body" includes[-];

280 (i) as defined in Section [11-13-103](#), an interlocal entity or joint or cooperative  
281 undertaking[-]; and

282 (ii) as defined in Section [11-13a-102](#), a governmental nonprofit corporation.

283 (c) "Public body" does not include a:

- 284 (i) political party, political group, or political caucus;
- 285 (ii) conference committee, rules committee, or sifting committee of the Legislature; or
- 286 (iii) school community council or charter trust land council as defined in Section  
287 [53A-1a-108.1](#).

288 (10) "Public statement" means a statement made in the ordinary course of business of  
289 the public body with the intent that all other members of the public body receive it.

290 (11) (a) "Quorum" means a simple majority of the membership of a public body, unless  
291 otherwise defined by applicable law.

292 (b) "Quorum" does not include a meeting of two elected officials by themselves when  
293 no action, either formal or informal, is taken on a subject over which these elected officials  
294 have advisory power.

295 (12) "Recording" means an audio, or an audio and video, record of the proceedings of a  
296 meeting that can be used to review the proceedings of the meeting.

297 (13) "Specified body":

298 (a) means an administrative, advisory, executive, or legislative body that:

- 299 (i) is not a public body;
- 300 (ii) consists of three or more members; and
- 301 (iii) includes at least one member who is:

302 (A) a legislator; and

303 (B) officially appointed to the body by the president of the Senate, speaker of the  
304 House of Representatives, or governor; and

305 (b) does not include a body listed in Subsection (9)(c)(ii).

306 (14) "Transmit" means to send, convey, or communicate an electronic message by  
307 electronic means.

308 Section 9. Section **63G-2-103** is amended to read:

309 **63G-2-103. Definitions.**

310 As used in this chapter:

311 (1) "Audit" means:

312 (a) a systematic examination of financial, management, program, and related records  
313 for the purpose of determining the fair presentation of financial statements, adequacy of  
314 internal controls, or compliance with laws and regulations; or

315 (b) a systematic examination of program procedures and operations for the purpose of  
316 determining their effectiveness, economy, efficiency, and compliance with statutes and  
317 regulations.

318 (2) "Chronological logs" mean the regular and customary summary records of law  
319 enforcement agencies and other public safety agencies that show:

320 (a) the time and general nature of police, fire, and paramedic calls made to the agency;  
321 and

322 (b) any arrests or jail bookings made by the agency.

323 (3) "Classification," "classify," and their derivative forms mean determining whether a  
324 record series, record, or information within a record is public, private, controlled, protected, or  
325 exempt from disclosure under Subsection [63G-2-201\(3\)\(b\)](#).

326 (4) (a) "Computer program" means:

327 (i) a series of instructions or statements that permit the functioning of a computer  
328 system in a manner designed to provide storage, retrieval, and manipulation of data from the  
329 computer system; and

330 (ii) any associated documentation and source material that explain how to operate the  
331 computer program.

332 (b) "Computer program" does not mean:

333 (i) the original data, including numbers, text, voice, graphics, and images;

334 (ii) analysis, compilation, and other manipulated forms of the original data produced by  
335 use of the program; or

336 (iii) the mathematical or statistical formulas, excluding the underlying mathematical  
337 algorithms contained in the program, that would be used if the manipulated forms of the  
338 original data were to be produced manually.

339 (5) (a) "Contractor" means:

340 (i) any person who contracts with a governmental entity to provide goods or services  
341 directly to a governmental entity; or

342 (ii) any private, nonprofit organization that receives funds from a governmental entity.

343 (b) "Contractor" does not mean a private provider.

344 (6) "Controlled record" means a record containing data on individuals that is controlled  
345 as provided by Section [63G-2-304](#).

346 (7) "Designation," "designate," and their derivative forms mean indicating, based on a  
347 governmental entity's familiarity with a record series or based on a governmental entity's  
348 review of a reasonable sample of a record series, the primary classification that a majority of  
349 records in a record series would be given if classified and the classification that other records  
350 typically present in the record series would be given if classified.

351 (8) "Elected official" means each person elected to a state office, county office,  
352 municipal office, school board or school district office, local district office, or special service  
353 district office, but does not include judges.

354 (9) "Explosive" means a chemical compound, device, or mixture:

355 (a) commonly used or intended for the purpose of producing an explosion; and

356 (b) that contains oxidizing or combustive units or other ingredients in proportions,  
357 quantities, or packing so that:

358 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the  
359 compound or mixture may cause a sudden generation of highly heated gases; and

360 (ii) the resultant gaseous pressures are capable of:

361 (A) producing destructive effects on contiguous objects; or

362 (B) causing death or serious bodily injury.

363 (10) "Government audit agency" means any governmental entity that conducts an audit.

364 (11) (a) "Governmental entity" means:

365 (i) executive department agencies of the state, the offices of the governor, lieutenant  
366 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,

367 the Board of Examiners, the National Guard, the Career Service Review Office, the State  
368 Board of Education, the State Board of Regents, and the State Archives;

369 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal  
370 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative  
371 committees, except any political party, group, caucus, or rules or sifting committee of the  
372 Legislature;

373 (iii) courts, the Judicial Council, the Office of the Court Administrator, and similar  
374 administrative units in the judicial branch;

375 (iv) any state-funded institution of higher education or public education; or

376 (v) any political subdivision of the state, but, if a political subdivision has adopted an  
377 ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this  
378 chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or  
379 as specified in any other section of this chapter that specifically refers to political subdivisions.

380 (b) "Governmental entity" also means:

381 (i) every office, agency, board, bureau, committee, department, advisory board, or  
382 commission of an entity listed in Subsection (11)(a) that is funded or established by the  
383 government to carry out the public's business; [~~and~~]

384 (ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative  
385 undertaking[-]; and

386 (iii) as defined in Section 11-13a-102, a governmental nonprofit corporation.

387 (c) "Governmental entity" does not include the Utah Educational Savings Plan created  
388 in Section 53B-8a-103.

389 (12) "Gross compensation" means every form of remuneration payable for a given  
390 period to an individual for services provided including salaries, commissions, vacation pay,  
391 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any  
392 similar benefit received from the individual's employer.

393 (13) "Individual" means a human being.

394 (14) (a) "Initial contact report" means an initial written or recorded report, however  
395 titled, prepared by peace officers engaged in public patrol or response duties describing official  
396 actions initially taken in response to either a public complaint about or the discovery of an  
397 apparent violation of law, which report may describe:

- 398 (i) the date, time, location, and nature of the complaint, the incident, or offense;
- 399 (ii) names of victims;
- 400 (iii) the nature or general scope of the agency's initial actions taken in response to the
- 401 incident;
- 402 (iv) the general nature of any injuries or estimate of damages sustained in the incident;
- 403 (v) the name, address, and other identifying information about any person arrested or
- 404 charged in connection with the incident; or
- 405 (vi) the identity of the public safety personnel, except undercover personnel, or
- 406 prosecuting attorney involved in responding to the initial incident.
- 407 (b) Initial contact reports do not include follow-up or investigative reports prepared
- 408 after the initial contact report. However, if the information specified in Subsection (14)(a)
- 409 appears in follow-up or investigative reports, it may only be treated confidentially if it is
- 410 private, controlled, protected, or exempt from disclosure under Subsection [63G-2-201](#)(3)(b).
- 411 (15) "Legislative body" means the Legislature.
- 412 (16) "Notice of compliance" means a statement confirming that a governmental entity
- 413 has complied with a records committee order.
- 414 (17) "Person" means:
- 415 (a) an individual;
- 416 (b) a nonprofit or profit corporation;
- 417 (c) a partnership;
- 418 (d) a sole proprietorship;
- 419 (e) other type of business organization; or
- 420 (f) any combination acting in concert with one another.
- 421 (18) "Private provider" means any person who contracts with a governmental entity to
- 422 provide services directly to the public.
- 423 (19) "Private record" means a record containing data on individuals that is private as
- 424 provided by Section [63G-2-302](#).
- 425 (20) "Protected record" means a record that is classified protected as provided by
- 426 Section [63G-2-305](#).
- 427 (21) "Public record" means a record that is not private, controlled, or protected and that
- 428 is not exempt from disclosure as provided in Subsection [63G-2-201](#)(3)(b).

429 (22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film,  
430 card, tape, recording, electronic data, or other documentary material regardless of physical form  
431 or characteristics:

432 (i) that is prepared, owned, received, or retained by a governmental entity or political  
433 subdivision; and

434 (ii) where all of the information in the original is reproducible by photocopy or other  
435 mechanical or electronic means.

436 (b) "Record" does not mean:

437 (i) a personal note or personal communication prepared or received by an employee or  
438 officer of a governmental entity:

439 (A) in a capacity other than the employee's or officer's governmental capacity; or

440 (B) that is unrelated to the conduct of the public's business;

441 (ii) a temporary draft or similar material prepared for the originator's personal use or  
442 prepared by the originator for the personal use of an individual for whom the originator is  
443 working;

444 (iii) material that is legally owned by an individual in the individual's private capacity;

445 (iv) material to which access is limited by the laws of copyright or patent unless the  
446 copyright or patent is owned by a governmental entity or political subdivision;

447 (v) proprietary software;

448 (vi) junk mail or a commercial publication received by a governmental entity or an  
449 official or employee of a governmental entity;

450 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections  
451 of a library open to the public;

452 (viii) material that is cataloged, indexed, or inventoried and contained in the collections  
453 of a library open to the public, regardless of physical form or characteristics of the material;

454 (ix) a daily calendar or other personal note prepared by the originator for the  
455 originator's personal use or for the personal use of an individual for whom the originator is  
456 working;

457 (x) a computer program that is developed or purchased by or for any governmental  
458 entity for its own use;

459 (xi) a note or internal memorandum prepared as part of the deliberative process by:

- 460 (A) a member of the judiciary;
- 461 (B) an administrative law judge;
- 462 (C) a member of the Board of Pardons and Parole; or
- 463 (D) a member of any other body charged by law with performing a quasi-judicial
- 464 function;
- 465 (xii) a telephone number or similar code used to access a mobile communication
- 466 device that is used by an employee or officer of a governmental entity, provided that the
- 467 employee or officer of the governmental entity has designated at least one business telephone
- 468 number that is a public record as provided in Section [63G-2-301](#);
- 469 (xiii) information provided by the Public Employees' Benefit and Insurance Program,
- 470 created in Section [49-20-103](#), to a county to enable the county to calculate the amount to be
- 471 paid to a health care provider under Subsection [17-50-319\(2\)\(e\)\(ii\)](#);
- 472 (xiv) information that an owner of unimproved property provides to a local entity as
- 473 provided in Section [11-42-205](#); or
- 474 (xv) a video or audio recording of an interview, or a transcript of the video or audio
- 475 recording, that is conducted at a Children's Justice Center established under Section [67-5b-102](#).
- 476 (23) "Record series" means a group of records that may be treated as a unit for
- 477 purposes of designation, description, management, or disposition.
- 478 (24) "Records committee" means the State Records Committee created in Section
- 479 [63G-2-501](#).
- 480 (25) "Records officer" means the individual appointed by the chief administrative
- 481 officer of each governmental entity, or the political subdivision to work with state archives in
- 482 the care, maintenance, scheduling, designation, classification, disposal, and preservation of
- 483 records.
- 484 (26) "Schedule," "scheduling," and their derivative forms mean the process of
- 485 specifying the length of time each record series should be retained by a governmental entity for
- 486 administrative, legal, fiscal, or historical purposes and when each record series should be
- 487 transferred to the state archives or destroyed.
- 488 (27) "Sponsored research" means research, training, and other sponsored activities as
- 489 defined by the federal Executive Office of the President, Office of Management and Budget:
- 490 (a) conducted:

- 491 (i) by an institution within the state system of higher education defined in Section  
492 [53B-1-102](#); and
- 493 (ii) through an office responsible for sponsored projects or programs; and
- 494 (b) funded or otherwise supported by an external:
- 495 (i) person that is not created or controlled by the institution within the state system of  
496 higher education; or
- 497 (ii) federal, state, or local governmental entity.
- 498 (28) "State archives" means the Division of Archives and Records Service created in  
499 Section [63A-12-101](#).
- 500 (29) "State archivist" means the director of the state archives.
- 501 (30) "Summary data" means statistical records and compilations that contain data  
502 derived from private, controlled, or protected information but that do not disclose private,  
503 controlled, or protected information.